

RECORD

The record considered by the Appeals Board consists of those documents and pleadings contained in the administrative file of the Division of Workers Compensation, including the July 9, 1996, deposition of Mel Lisher; the July 15, 1996, deposition of Kenneth L. Wertzberger, M.D.; and the April 11, 1996, transcript of Settlement Hearing before Special Administrative Law Judge Mark L. Ferguson.

STIPULATIONS

The Appeals Board has considered and adopted the stipulations listed in the order by the Administrative Law Judge.

ISSUES

- (1) Date of accident.
- (2) Liability of the Workers Compensation Fund.
- (3) Attorney fees.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire record and having considered the briefs and arguments of the parties, the Appeals Board finds that the award entered by the Administrative Law Judge should be affirmed.

The findings of fact and conclusions of law as enumerated in the award order by the Administrative Law Judge are found to be accurate and appropriate and are hereby adopted by the Appeals Board as its own as if specifically set forth herein.

The Appeals Board, further, adopts the analysis of the evidence and applicable law by the Administrative Law Judge regarding the date of accident. Specifically, the Appeals Board finds that the last day worked should be utilized as the date of claimant's accident.

The Appeals Board agrees that the Workers Compensation Fund cannot be liable for any portion of the award.

Respondent will not be ordered to pay for the Workers Compensation Fund's attorney fees.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order Regarding Fund Liability of Administrative Law Judge Floyd V. Palmer dated September 10, 1996, should be, and the same is hereby, affirmed in all respects. The orders contained in the award are hereby adopted by the Appeals Board as its own.

IT IS SO ORDERED.

Dated this ____ day of February 1997.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Kenneth J. Hursh, Overland Park, KS
David J. Berkowitz, Lawrence, KS
Floyd V. Palmer, Administrative Law Judge
Philip S. Harness, Director